

**STATUTE,
RULES, and
REGULATIONS**

**U. S. Commission on Civil Rights
Washington, D. C.
1973**



The United States Commission on Civil Rights is a temporary, independent, bipartisan agency established by the Congress in 1957 to:

- Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, or national origin;
- Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin;
- Appraise Federal laws and policies with respect to the equal protection of the laws because of race, color, religion, sex, or national origin;
- Serve as a national clearinghouse for information in respect to denials of equal protection of the laws because of race, color, religion, sex, or national origin; and
- Submit reports, findings, and recommendations to the President and the Congress.

UNITED STATES COMMISSION ON CIVIL RIGHTS

This booklet consists of the following statute, rules, and regulations that concern the United States Commission on Civil Rights.

- A. Sections 101-06, Civil Rights Act of 1957, As Amended**
- B. Rules and Regulations of the United States Commission on Civil Rights**
 - 1. Organization and Functions of the Commission
 - 2. Rules on Hearings and Reports of the Commission
 - 3. Operations and Functions of State Advisory Committees
 - 4. Communications and Confidential Information
 - 5. Employee Responsibilities and Conduct
- C. Regulations Promulgated by the Civil Service Commission on Employee Responsibilities and Conduct**

A. SECTIONS 101-06, CIVIL RIGHTS ACT OF 1957, AS AMENDED

Sections 101-06 of the Civil Rights Act of 1957, 71 Stat. 634; as amended by the Civil Rights Act of 1960, 74 Stat. 86; as amended by the Civil Rights Act of 1964, 78 Stat. 241; as amended by 81 Stat. 582 (1967); and as amended by 84 Stat 1356 (1970); and by 86 Stats. 818, 42 USCA 1975 (1972).

ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

Sec. 101. (a) There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission").

(b) The Commission shall be composed of six members who shall be appointed by the President by and with the advice and consent of the Senate. Not more than three of the members shall at any one time be of the same political party.

(c) The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations as the original appointment was made.

(e) Four members of the Commission shall constitute a quorum.

RULES OF PROCEDURE OF THE COMMISSION HEARINGS

Sec. 102. (a) At least thirty days prior to the commencement of any hearing, the Commission shall cause

to be published in the FEDERAL REGISTER notice of the date on which such hearing is to commence, the place at which it is to be held, and the subject of the hearing. The Chairman, or one designated by him to act as Chairman at a hearing of the Commission, shall announce in an open statement the subject of the hearing.

(b) A copy of the Commission's rules shall be made available to any witness before the Commission, and a witness compelled to appear before the Commission or required to produce written or other matter shall be served with a copy of the Commission's rules at the time of service of the subpoena.

(c) Any person compelled to appear in person before the Commission shall be accorded the right to be accompanied and advised by counsel, who shall have the right to subject his client to reasonable examination, and to make objections on the record and to argue briefly the basis for such objections. The Commission shall proceed with reasonable dispatch to conclude any hearing in which it is engaged. Due regard shall be had for the convenience and necessity of witnesses.

(d) The Chairman or Acting Chairman may punish breaches of order and decorum by censure and exclusion from the hearings.

(e) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or summary of such evidence or testimony in executive session.

The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony. In the event the Commission determines to release or use such evidence or testimony in such manner as to reveal publicly the identity of the person defamed, degraded or incriminated, such evidence or testimony, prior to such public release or use, shall be given at a public session, and the Commission shall afford such person an opportunity to appear as a voluntary witness or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others. The Commission shall receive and dispose of requests from such person to subpoena additional witnesses. If a report of the Commission tends to defame, degrade or incriminate any person, then the report shall be delivered to such person thirty days before the report shall be made public in order that such person may make a timely answer to the report. Each person so defamed, degraded, or incriminated in such report may file with the Commission a verified answer to the report not later than twenty days after service of the report upon him. Upon a showing of good cause, the Commission may grant the person an extension of time within which to file such answer. Each answer shall plainly and

concisely state the facts and law constituting the person's reply or defense to the charges or allegations contained in the report. Such answer shall be published as an appendix to the report. The right to answer within these time limitations and to have the answer annexed to the Commission report shall be limited only by the Commission's power to except from the answer such matter as it determines has been inserted scandalously, prejudiciously, or unnecessarily.

(f) Except as provided in sections 102 and 105(f) of this Act, the Chairman shall receive and the Commission shall dispose of requests to subpoena additional witnesses.

(g) No evidence or testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without consent of the Commission such evidence or testimony taken in executive session shall be fined not more than \$1,000, or imprisoned for not more than one year.

(h) In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission shall determine the pertinency of testimony and evidence adduced at its hearings.

(i) Every person who submits data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that a witness in a hearing held in executive session may for good cause be limited to inspection of the official transcript of his testimony. Transcript copies of public sessions may be obtained by the public upon the payment of the cost thereof. An accurate

transcript shall be made of the testimony of all witnesses at all hearings, either public or executive sessions, of the Commission or of any subcommittee thereof.

(j) Mileage payments shall be tendered to the witness upon service of a subpoena issued on behalf of the Commission or any subcommittee thereof. A witness attending any session of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(k) The Commission shall not issue any subpoena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpoenaed at a hearing to be held outside of the State wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process except that, in any event, the Commission may issue subpoenas for the attendance and testimony of witnesses and the production of written or other matter at a hearing held within fifty miles of the place where the witness is found or resides or is domiciled or transacts business or has appointed an agent for receipt of service of process.

(1) The Commission shall separately state and currently publish in the FEDERAL REGISTER (1) descriptions of its central and field organization including the established places at which, and methods whereby, the public may secure information or make requests; (2) statements of the general course and method by which its functions are channeled and determined; and (3) rules adopted as authorized by law. No person shall in any manner be subject to or required to resort to

rules, organization, or procedure not so published.

COMPENSATION OF MEMBERS OF THE COMMISSION

Sec. 103. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive a sum equivalent to the compensation paid at level IV of the Federal Executive Salary Schedule, pursuant to section 5315 of Title 5, prorated on a daily basis for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73b-2; 60 Stat. 808).

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with the provisions of the Travel Expenses Act of 1949, as amended (5 U.S.C. 835-42; 63 Stat. 166).

DUTIES OF THE COMMISSION

Sec. 104. (a) The Commission shall—

(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, sex, or national ori-

gin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

(2) study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice;

(3) appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice;

(4) serve as a national clearing-house for information in respect to laws because of race, color, religion, sex, or national origin, including but not limited to the fields of voting, education, housing, employment, the use of public facilities, and transportation, or in the administration of justice;

(5) investigate allegations, made in writing and under oath or affirmation, that citizens of the United States are unlawfully being accorded or denied the right to vote, or to have their votes properly counted, in any election of presidential electors, Members of the United States Senate, or of the House of Representatives, as a result of any patterns or practice of fraud or discrimination in the conduct of such elections; and

(6) nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or so-

rority, any private club, or any religious organization.

(b) The Commission shall submit interim reports to the President and to the Congress at such times as the Commission, the Congress, or the President shall deem desirable, and shall submit to the President and to the Congress a final report of its activities, findings, and recommendations not later than the last day of the fiscal year 1978.

(c) Sixty days after the submission of its final report and recommendations the Commission shall cease to exist.

POWERS OF THE COMMISSION

Sec. 105. (a) There shall be a full-time Staff Director for the Commission who shall be appointed by the President by and with the advice and consent of the Senate and who shall receive compensation at a rate, to be fixed by the President, not in excess of \$22,500 a year. The President shall consult with the Commission before submitting the nomination of any person for appointment to the position of Staff Director. Within the limitations of its appropriations, the Commission may appoint such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 3109 of Title 5, but at rates for individuals not in excess of the daily equivalent paid for positions at the maximum rate for GS-15 of the General Schedule under section 5332 of Title 5.

(b) The Commission shall not accept or utilize services of voluntary or uncompensated personnel, and the term "whoever" as used in paragraph (g) of section 102 hereof shall be construed to mean a person whose

denial of equal protection of the

services are compensated by the United States.

(c) The Commission may constitute such Advisory Committees within States composed of citizens of that State and may consult with Governors, Attorneys General, and other representatives of State and local governments, and private organizations, as it deems advisable.

(d) Members of the Commission, and members of Advisory Committees constituted pursuant to subsection (c) of this section, shall be exempt from the operation of sections 281, 283, 284, 434, and 1914 of Title 18 of the United States Code, and section 190 of the Revised Statutes (5 U.S.C. 99).

(e) All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(f) The Commission, or on the authorization of the Commission any Subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such times and places as the Commission or such authorized Subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued in accordance with the rules of the Commission as contained in section 102 (j) and (k) of this Act, over the signature of the Chairman of the Commission or of such Subcommittee, and may be served by any person designated by such Chairman. The holding of hearings by the Commission, or the appointment of a Subcommittee to hold hearings pursuant to this subparagraph, must be approved by a majority of the members present at

a meeting at which at least a quorum of four members is present.

(g) In case of contumacy or refusal to obey a subpoena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service or process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a Subcommittee thereof, there to produce pertinent, relevant, and non-privileged evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as contempt thereof.

(h) Without limiting the generality of the foregoing, each member of the Commission shall have the power and authority to administer oaths or take statements of witnesses under affirmation.

(i) The Commission shall have the power to make such rules and regulations as are necessary to carry out the purpose of this Act.

APPROPRIATIONS

Sec. 106. For the purposes of carrying out this Act, there is authorized to be appropriated for the fiscal year ending June 30, 1973, the sum of \$5,500,000, and for each fiscal year thereafter through June 30, 1978, the sum of \$7,000,000.

B. RULES AND REGULATIONS OF THE UNITED STATES COMMISSION ON CIVIL RIGHTS

1. ORGANIZATION AND FUNCTIONS OF THE COMMISSION

PART 701—ORGANIZATION AND FUNCTIONS OF THE COMMISSION

Subpart A—Operations and Functions

Sec.

- 701.1 Establishment.
- 701.2 Responsibilities.

Subpart B—Organization Statement

Sec.

- 701.11 Membership of the Commission.
- 701.12 Staff organization.
- 701.13 Field offices.

AUTHORITY: The provisions of this Part 701 issued under secs. 101-106, 71 Stat. 634-636, as amended; 42 U.S.C. 1975-1975e.

Subpart A—Operations and Functions

701.1 Establishment.

The United States Commission on Civil Rights (hereinafter referred to as the "Commission") is a bipartisan agency of the executive branch of the Government. Established under the Civil Rights Act of 1957, 71 Stat. 634, the Commission derives its responsibilities from that Act and from amendments to it in the Civil Rights Act of 1960, 74 Stat. 86; in the Civil Rights Act of 1964, 78 Stat. 241; by 81 Stat. 582 (1967); by 84 Stat. 1356 (1970); and by 86 Stat. 813 (1972). (Hereinafter the 1957 Act as amended will be referred to as "the Act.")

701.2 Responsibilities.

(a) The Commission's responsibilities under section 104(a) of the Act may be summarized briefly as follows:

(1) Investigating sworn allegations that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of color, race, religion, sex, or national origin;

(2) Studying and collecting information concerning legal developments constituting a denial of equal protection of the laws under the Constitution;

(3) Appraising the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution;

(4) Serving as a national clearinghouse for information in respect to denials of equal protection of the laws because of race, color, religion, sex, or national origin;

(5) Investigating sworn allegations that citizens are being accorded or denied the right to vote in Federal elections as a result of patterns or practices of fraud or discrimination.

(b) Under section 104(b) of the Act the Commission is charged with: The submission of interim reports to the President and to the Congress at such times as the Commission, the Congress, or the President shall deem desirable, and the submission

to the President and to the Congress of the final report of its activities, findings, and recommendations not later than the last day of fiscal year 1978.

(c) In fulfilling these responsibilities the Commission is authorized by the Act to hold hearings; to constitute State Advisory Committees; to consult with Governors, Attorneys General, other representatives of State and local governments, and private organizations; and to issue subpoenas for the production of documents and the attendance of witnesses. The Act also provides that all Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

Subpart B—Organization Statement

701.11 Membership of the Commission.

Pursuant to section 101 of the Act:

(a) The Commission is composed of six members, appointed by the President by and with the advice and consent of the Senate, not more than three of whom are of the same political party.

(b) The Chairman and Vice Chairman of the Commission are designated by the President, the Vice Chairman acting as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

(c) No vacancy in the Commission affects its powers and any vacancy is filled in the same manner and subject to the same limitation with respect to party affiliations as the original appointment was made.

(d) Four members of the Commission constitute a quorum.

701.12 Staff organization.

(a) Pursuant to section 105(a) of the Act, the staff of the Commission consists of a Staff Director, appointed by the President by and with the advice and consent of the Senate, and of such other personnel as the Commission may appoint within the limitations of its appropriation.

(b) The staff organization of the Commission is as follows:

(1) *Office of the Staff Director.* Under the general direction of the Commission, the Office of the Staff Director plans the agency work programs, directs, supervises, and coordinates the work of offices, reports plans, work programs, and activities of the agency to the Commission; represents the agency in relation with the Executive Office of the President, the Congress, other Federal agencies, the press, national civil rights organizations, other private and local groups, and the general public; and manages the administrative affairs of the agency.

(i) *Women's Rights Program Unit.* The Women's Rights Program Unit recommends and assists in the development of overall agency programs with regard to women's rights; handles the identification and evaluation of women's rights issues; oversees the design and implementation of specific women's rights projects; maintains liaison with national private organizations and with research institutions dealing with women's rights.

(ii) *The Congressional Liaison Unit.* The Congressional Liaison Unit responds to congressional requests; observes the Commission's interests with respect to its statute, authorization and appropriations; provides commentaries and prepares testimony on civil and women's

rights legislation; and identifies legislative means of implementing the Commission's recommendations.

(2) *Office of General Counsel.* The Office of General Counsel plans and conducts hearings to investigate and obtain information about the denial of civil and women's rights; conducts legal studies in areas within the jurisdiction of the Commission; prepares reports of legal studies and hearings held within the jurisdiction of the Commission; drafts or reviews proposals for legislative and executive action in civil and women's rights; reviews all agency publications and congressional testimony for legal sufficiency; serves as legal counsel to the Commission and to the agency; and drafts and negotiates all agency contracts.

(3) *Office of Program and Policy Review.* The Office of Civil Rights Program and Policy Review conducts appraisals of Federal policies, administration, and programs; provides technical research assistance to other Commission units and to public and private groups and individuals; plans and conducts or stimulates studies to advance basic knowledge about the extent, causes, and socio-economic consequences of civil and women's rights denials, including, but not limited to the areas of housing, education, economic security and welfare; and prepares reports and clearinghouse materials in areas within the jurisdiction of the Commission.

(4) *Office of Information and Publications.* The Office of Information and Publications prepares and disseminates information about the Commission and its studies and publications through various techniques of communication; assists in the preparation of clearinghouse publi-

cations; prepares for printing all Commission publications, including hearing transcripts and reports; maintains liaison with the news media; writes speeches and coordinates speaking engagements of Commission staff; and maintains information liaison with public and private groups and individuals interested in civil and women's rights.

(5) *Office of Management.* The Office of Management provides management services to the agency in the areas of personnel, financial management, program analysis, procurement, space, travel, reproduction, mail, and messenger services.

(6) *Office of Field Operations.* The Office of Field Operations plans and directs field offices and field programs of the Commission; develops, organizes, and supervises field activities including investigations, meetings, conferences, and the preparation of reports of State Advisory Committees to the Commission which are located in each State and the District of Columbia; assists other Commission units in carrying out hearings, meetings, studies, and clearinghouse functions in the field; maintains liaison with public and private organizations and individuals interested in civil and women's rights at the regional, State and local level; and provides information services to field offices, State Advisory Committees, and other public and private groups whose goals and activities are consistent with those of the Commission.

(7) *Office of Federal Civil Rights Evaluation.* The Office of Federal Civil Rights Evaluation conducts appraisals of Federal agencies' implementation of their civil rights responsibility; receives complaints alleging denial of civil rights, refers

them to Federal agencies having jurisdiction and follows up on action taken; and maintains liaison within Federal agencies on civil and women's rights policies.

(8) *Office of Research.* The Office of Research conducts social science research into the problems of minorities and women; tests applicable theories of social science as they relate to the Commission's jurisdiction; provides advice and counsel to other offices on projects involving social science research; and houses a national documentation center which functions as a clearinghouse for collected specialized information on civil and women's rights.

701.13 Regional Offices.

The Commission has established regional offices at:

a. Central States Regional Office, Room 3103, Old Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106

b. Mid-Atlantic Regional Office, Room 510, 2120 L Street, N.W., Washington, D.C. 20425

c. Midwestern Regional Office, Room 1428, 219 South Dearborn Street, Chicago, Illinois 60604

d. Mountain States Regional Office, Room 216, Ross Building, 1726 Champa Street, Denver, Colorado 80202

e. Northeastern Regional Office, Room 1639, 26 Federal Plaza, New York, New York 10007

f. Southern Regional Office, Room 362, Citizens Trust Bank Building, 75 Piedmont Avenue, N.E., Atlanta, Georgia 30303

g. Southwestern Regional Office, Room 249, New Moore Building, 106 Broadway, San Antonio, Texas 78205

h. Western Regional Office, Room

1015, 312 North Spring Street, Los Angeles, California 90012

2. RULES ON HEARINGS AND REPORTS OF THE COMMISSION

PART 702—RULES ON HEARINGS AND REPORTS OF THE COMMISSION

Sec.

- 702.1 Definitions.
- 702.2 Authorization for hearing.
- 702.3 Notice of hearing.
- 702.4 Subpenas.
- 702.5 Conduct of proceedings.
- 702.6 Executive session.
- 702.7 Counsel.
- 702.8 Evidence at Commission proceedings.
- 702.9 Cross-examination at public session.
- 702.10 Voluntary witnesses at public session of a hearing.
- 702.11 Special executive session.
- 702.12 Contempt of the Commission.
- 702.13 Intimidation of witnesses.
- 702.14 Transcript of Commission proceedings.
- 702.15 Witness fees.
- 702.16 Attendance of news media at public sessions.
- 702.17 Communications with respect to Commission proceedings.
- 702.18 Commission Reports.

AUTHORITY: The provisions of the Part 702 issued under secs. 101-106, 71 Stat. 634-636, as amended; 42 U.S.C. 1975-1975e.

702.1 Definitions.

For purposes of the following Rules on Hearings of the United States Commission on Civil Rights, the following definitions shall apply, unless otherwise provided:

(a) "The Act" shall refer to the Civil Rights Act of 1957, 71 Stat. 634, as amended.

(b) "The Commission" shall refer to the United States Commission on Civil Rights or, as provided in 702.2, to any authorized Subcommittee thereof.

(c) "The Chairman" shall refer to the Chairman of the Commission or authorized Subcommittee thereof or to any acting Chairman of the Commission or of such Subcommittee.

(d) "Proceeding" shall refer collectively to any public session of the

Commission and any executive session held in connection therewith.

(e) "Hearing" shall refer collectively to a public session of the Commission and any executive session held in connection therewith, but shall not include a session held for the sole purpose of receiving subpoenaed documents.

(f) "The rules in this part" shall refer to the Rules on Hearings of the Commission.

(g) "Report" refers to statutory reports or portions thereof issued pursuant to section 104(b) of the Civil Rights Act of 1957, as amended.

(h) "Verified answer" refers to an answer the truth of which is substantiated by oath or affirmation attested to by a notary public or other person who has legal authority to administer oaths.

702.2 Authorization for hearing.

Under section 105(f) of the Act the Commission or, on the authorization of the Commission, any Subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of the Act, hold such hearings and act at such times and places as the Commission or such authorized Subcommittee may deem advisable; and the holding of hearings by the Commission or the appointment of a Subcommittee to hold hearings pursuant to this section must be approved by a majority of the Commission, or by a majority of the members present at a meeting at which at least a quorum of four members is present.

702.3 Notice of hearing.

At least 30 days prior to the commencement of any hearing, the Com-

mission shall cause to be published in the FEDERAL REGISTER notice of the date on which such hearing is to commence, the place at which it is to be held, and the subject of the hearing.

702.4 Subpenas.

(a) Subpenas for the attendance and testimony of witnesses or the production of written or other matters may be issued by the Commission over the signature of the Chairman and may be served by any person designated by him.

(b) A witness compelled to appear before the Commission or required to produce written or other matter shall be served with a copy of the rules in this part at the time of service of the subpoena.

(c) The Commission shall not issue any subpoena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpoenaed at a place outside the State wherein the witness is found or resides or is domiciled or transacts business or has appointed an agent for receipt of service of process except that, in any event, the Commission may issue subpoenas for the attendance and testimony of witnesses and the production of written or other matter at a place within 50 miles of the place where the witness is found or resides or is domiciled or transacts business or has appointed an agent for receipt of service of process.

(d) The Chairman shall receive and the Commission shall dispose of requests to subpoena additional witnesses except as otherwise provided in 702.6(e).

(e) Requests for subpoena shall be in writing, supported by a showing

of the general relevance and materiality of the evidence sought. Witness fees and mileage, computed pursuant to 702.15, shall be paid by the person at whose instance a witness is subpoenaed.

(f) Subpenas shall be issued at a reasonably sufficient time in advance of their scheduled return, in order to give the person subpoenaed an opportunity to prepare for his appearance and to employ counsel, should he so desire.

(g) No subpoenaed document or information contained therein shall be made public unless it is introduced into and received as part of the official record of the hearing.

702.5 Conduct of proceedings.

(a) The Chairman shall announce in an opening statement the subject of the proceeding.

(b) Following the opening statement, the Commission shall first convene in executive session if one is required pursuant to the provisions of 702.6.

(c) The Chairman shall, subject to the approval of the Commission—

(1) Set the order of presentation of evidence and appearance of witnesses;

(2) Rule on objections and motions;

(3) Administer oaths and affirmations;

(4) Make all rulings with respect to the introduction into or exclusion from the record of documentary or other evidence;

(5) Regulate the course and decorum of the parties and their counsel to insure that the proceedings are conducted in a fair and impartial manner.

(d) Proceedings shall be conducted with reasonable dispatch and

due regard shall be had for the convenience and necessity of witnesses.

(e) The questioning of witnesses shall be conducted only by Members of the Commission, by authorized Commission staff personnel, or by counsel to the extent provided in 702.7.

(f) In addition to persons served with a copy of the rules in this part pursuant to 702.4 and 702.6, a copy of the rules in this part will be made available to all witnesses.

(g) The Chairman may punish breaches of order and decorum by censure and exclusion from the proceedings.

702.6 Executive session.

(a) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or summary of such evidence or testimony in executive session.

(b) The Commission shall afford afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony.

(1) Such person shall be served with notice in writing of the date, time, and place made available for the appearance of witnesses at executive session, at least 10 days prior to such date, or where service is by mail at least 14 days prior to such date. This notice shall be accompanied by a brief summary of the information which the Commission has determined may tend to defame, degrade, or incriminate such person.

(2) The notice, summary, and

rules in this part shall be served personally by depositing the same in the United States mail as certified mail, or by leaving a copy thereof at the last known residence or business address of such person.

(3) The date of service, for purposes of this section, shall be the day when the material is deposited in the United States mail or is delivered in person, as the case may be. When service is made by certified mail, the return post office receipt shall be proof of service; in all other cases, the acknowledgement of the party served, or the verified return of the one making service shall be proof of the same.

(c) If a person receiving notice under this section notifies the Commission within 5 days of service of such notice, or where service is by mail within 8 days of service of such notice that the time schedule therein constitutes a hardship, the Commission may, in its discretion, set a new time for his appearance at executive session.

(d) In the event such person fails to appear at executive session at the time and place made available under paragraph (b) or (c) of this section, he shall not be entitled to another opportunity to appear at executive session, except as provided in 702.11.

(e) If such person intends to submit sworn statements of himself or others, or if he intends to request that witnesses appear in his behalf at executive session, he shall, no later than 48 hours prior to the time set under paragraph (b) or (c) of this section, submit to the Commission all such statements and a list of all such witnesses. The Commission will inform such person whether the number of witnesses requested is reasonable within the meaning

of paragraph (b) of this section. In addition, the Commission will receive and dispose of requests from such person to subpoena other witnesses. Requests for subpoenas shall be made sufficiently in advance of the scheduled executive session as to afford persons subpoenaed reasonable notice of their obligation to appear at that session. Subpoenas returnable at executive session shall be governed by the provisions of 702.4.

(f) Persons for whom an executive session has been scheduled, and persons compelled to appear at such session, may be represented by counsel at such session to the extent provided by 702.7.

(g) Attendance at executive session shall be limited to Members of the Commission, authorized Commission staff personnel, witnesses and their counsel at the time scheduled for their appearance, and such other persons whose presence is requested or consented to by the Commission.

(h) In the event the Commission determines to release or to use evidence or testimony which it has determined may tend to defame, degrade, or incriminate any person, in such a manner as to reveal publicly the identity of such person, such evidence or testimony, prior to such public release or use, will be presented at a public session, and the Commission will afford such person an opportunity to appear as a voluntary witness or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others.

702.7 Counsel.

(a) Any person compelled to appear in person before the Commission and any witness appearing at

a public session of the Commission will be accorded the right to be accompanied and advised by counsel, who will have the right to subject his client to reasonable examination, and to make objections on the record and to argue briefly the basis for such objections.

(b) For the purpose of this section, "counsel" shall mean an attorney at law admitted to practice before the Supreme Court of the United States, or the highest court of any State or Territory of the United States.

(c) The failure of any person to obtain counsel shall not excuse him from attendance in response to a subpoena, nor shall any person be excused in the event his counsel is excluded from the proceeding pursuant to 702.5 (g). In the latter case, however, the witness shall be afforded a reasonable time to obtain other counsel, said time to be determined by the Commission.

702.8 Evidence at Commission proceedings.

(a) The rules of evidence prevailing in courts of law or equity shall not control proceedings of the Commission.

(b) Where a witness testifying at a public session of a hearing or a session for return of subpoenaed documents offers the sworn statements of other persons, such statements, in the discretion of the Commission, may be included in the record, provided they are received by the Commission 24 hours in advance of his appearance.

(c) The prepared statement of a witness testifying at a public session of a hearing, in the discretion of the Commission, may be placed into the record or may be read into the rec-

ord, provided that such statement is received by the Commission 24 hours in advance of his appearance.

(d) In the discretion of the Commission, evidence may be included in the record after the close of a public session of a hearing, provided the Commission determines that such evidence does not tend to defame, degrade, or incriminate any person.

(e) The Commission will determine the pertinency of testimony and evidence adduced at its proceedings, and may refuse to include in the record of a proceeding or may strike from the record any evidence it considers to be cumulative, immaterial, or not pertinent.

702.9 Cross-examination at public session.

If the Commission determines that oral testimony of a witness at a public session tends to defame, degrade, or incriminate any person, such person or his counsel shall be permitted to submit questions to the Commission in writing, which, in the discretion of the Commission, may be put to such witness by the Chairman or by authorized Commission staff personnel.

702.10 Voluntary witness at public session of a hearing.

A person who has not been subpoenaed and who has not been afforded an opportunity to appear pursuant to 702.6 may be permitted, in the discretion of the Commission, to make an oral or written statement at a public session of a hearing. Such person may be questioned to the same extent and in the same manner as other witnesses before the Commission.

702.11 Special executive session.

If, during the course of a public session, evidence is submitted which was not previously presented at executive session and which the Commission determines may tend to defame, degrade, or incriminate any person, the provision of 702.6 shall apply, and such extensions, recesses, or continuances of the public session as it deems necessary shall be ordered by the Commission, except that the time and notice requirements of 702.6 may be modified by the Commission provided reasonable notice of a scheduled executive session is afforded such person, and except that the Commission may, in its discretion, strike such evidence from the record, in which case the provisions of 702.6 shall not apply.

702.12 Contempt of the Commission.

Proceedings and process of the Commission are governed by section 105 (g) of the Act, which provides:

In case of contumacy or refusal to obey a subpoena, a district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or Subcommittee thereof, there to produce pertinent, relevant and nonprivileged evidence if so ordered, or there to

give testimony touching the matter under investigation; and any failure to obey such order to the court may be punished by said court as a contempt thereof.

702.13 Intimidation of witnesses.

Witnesses at Commission proceedings are protected by the provisions of 18 U.S.C. 1505, which provide:

Whoever corruptly, or by threats or force, or by any threatening letter or communication, endeavors to influence, intimidate, or impede any witness in any proceeding pending before any department or agency of the United States, or in connection with any inquiry or investigation being held by either House, or any Committee of either House, or any joint committee of the Congress; or

Whoever injures any party or witness in his person or property on account of his attending or having attended such proceeding, inquiry, or investigation, or on account of his testifying or having testified to any matter pending therein; or

Whoever, with intent to avoid, evade, prevent, or obstruct compliance in whole or in part with any civil investigative demand duly and properly made under the Antitrust Civil Process Act willfully removes from any place, conceals, destroys, mutilates, alters, or by other means falsifies any documentary material which is the subject of such demand; or

Whoever corruptly, or by threats of force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which such proceeding is being had before such department or agency of the United States, or

the due and proper exercise of the power of inquiry under which such inquiry or investigation is being had before such department or agency of the United States, or the due and proper exercise of the power of inquiry under which such inquiry or investigation is being had by either House, or any joint committee of the Congress—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

702.14 Transcript of Commission proceedings.

(a) An accurate transcript shall be made of the testimony of all witnesses at all proceedings of the Commission. Transcripts shall be recorded solely by the official reporter, or by any other person or means designated by the Commission.

(b) Every person who submits data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that witness in a hearing held in executive session may for good cause be limited to inspection of the official transcript of his testimony. Transcript copies of public sessions may be obtained by the public upon the payment of the cost thereof.

(c) Any person who has presented testimony at a proceeding may ask within 60 days after the close of the proceeding to correct errors in the transcript of his testimony. Such requests shall be granted only to make the transcript conform to his testimony as presented at the proceeding.

702.15 Witness fees.

Pursuant to section 102(j) of the Act: A witness attending any ses-

sion of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Mileage payments shall be tendered to the witness upon service of a subpoena issued on behalf of the Commission or any subcommittee thereof.

702.16 Attendance of news media at public sessions.

Reasonable access for coverage of public sessions shall be provided to the various means of communication, including newspapers, magazines, radio, newsreels, and television, subject to the physical limitations of the room in which the session is held and consideration of the physical comfort of Commission members, staff, and witnesses. However, no witness shall be televised, filmed, or photographed during the session nor shall his testimony be broadcast or recorded for broadcasting, if he objects.

702.17 Communications with respect to Commission proceedings.

During any proceeding held outside Washington, D.C., communications to the Commission with respect to such proceeding must be made to the Chairman or authorized Commission staff personnel in attendance. All requests for subpoenas returnable at a hearing, requests for appearance of witnesses at a hearing, and statements or other documents for inclusion in the record of a proceeding, required to be submitted in advance, must be submitted to the Chairman, or such authorized person as he may appoint, at an office located in the community where such hearing or proceeding is scheduled to be held. The location of such office will be set forth in

all subpoenas issued under the rules in this part and in all notices prepared pursuant to 702.6.

702.18 Commission reports.

(a) If a Commission report tends to defame, degrade, or incriminate any person, the report or relevant portions thereof shall be delivered to such person at least thirty (30) days before the report shall be made public in order that such person may make a timely verified answer to the report. The Commission shall afford such person an opportunity to file with the Commission a verified answer to the report or relevant portions thereof not later than twenty (20) days after service of the report or relevant portions thereof upon such person as provided by the regulations in this part.

(1) Such person shall be served with a copy of the report or relevant portions thereof, with an indication of the section(s) that the Commission has determined tend to defame, degrade, or incriminate him, a copy of the Act and a copy of the regulations in this part.

(2) The report or relevant portions thereof, the Act, and regulations in this part shall be served by depositing the same in the U.S. mail via certified mail, return receipt requested, or by leaving a copy thereof at the last known residence or business address of such person.

(3) The date of service for the purposes of this section shall be the day the material is delivered either by the post office or otherwise, to such person or his agent or at the last known residence or business address of such person. The acknowledgement of the party served, or the verified return of the one making

service shall be proof of service except that when service is made by certified mail, the return post office receipt may also constitute proof of same.

(b) If a person receiving a Commission report or relevant portions thereof under this part requests an extension of time from the Commission within 7 days of service of such report, the Commission may, upon a showing of good cause, grant the person additional time within which to file a verified answer.

(c) A verified answer shall plainly and concisely state the facts and law constituting the person's reply or defense to the charges or allegations contained in the report.

(d) Such verified answer will be published as an appendix to the report: Provided, however, That the Commission may except from the answer such matter as it determines to be scandalous, prejudicial or unnecessary.

3. OPERATIONS AND FUNCTIONS OF STATE ADVISORY COMMITTEES

PART 703—OPERATIONS AND FUNCTIONS OF STATE ADVISORY COMMITTEES

Sec.	
703.1	Name and establishment.
703.2	Functions.
703.3	Scope of subject matter.
703.4	Advisory Committee Management Officer.
703.5	Membership.
703.6	Officers.
703.7	Subcommittees.
703.8	Meetings.
703.9	Reimbursement of Members.
703.10	Public availability of documents and other materials.

703.1 Name and Establishment.

Pursuant to Section 105(c) of the Act, the Commission has duly chartered and established State Advisory Committees to the Commission.

703.2 Functions.

Under the Commission's charter each State Advisory Committee shall:

(a) Advise the Commission in writing of any knowledge or information it has of any alleged deprivation of the right to vote and to have the vote counted, by reason of color, race, religion, sex, or national origin, or that citizens are being accorded or denied the right to vote in Federal elections as a result of patterns or practices of fraud or discrimination;

(b) Advise the Commission concerning legal developments constituting a denial of equal protection of the laws under the Constitution, and as to the effect of the laws and policies of the Federal Government with respect to equal protection of the laws;

(c) Advise the Commission upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress;

(d) Receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Committee;

(e) Initiate and forward advice and recommendations to the Commission upon matters which the State Committee has studied;

(f) Assist the Commission in the exercise of its clearinghouse function and with respect to other matters which the State Commission has studied;

(g) Attend, as observers, any open hearing or conference which the Commission may hold within the State.

703.3 Scope of Subject Matter.

The scope of the subject matter to be dealt with by the State Advisory Committees shall be those subjects of inquiry or study with which the Commission itself is authorized to deal, pursuant to 104(a) of the Act. Each State Advisory Committee shall confine its studies to the State covered by its charter. It may, however, subject to the requirements of 703.4, undertake to study within the limitations of the Act, subjects other than those chosen by the Commission for study.

703.4 Advisory Committee Management Officer.

The Assistant Staff Director for the Office of Field Operations is designated as Advisory Committee Management Officer pursuant to the requirements of the Federal Advisory Committee Act of 1972, (P.L. 92-463).

(a) Such officer shall carry out the functions specified in 8(b) of the Federal Advisory Committee Act.

(b) Such officer shall with respect to each State Advisory Committee appoint an employee, subject to the supervision of the Regional Director of the Commission having responsibility for the State within which said Committee has been chartered. The employee so appointed shall provide day-to-day services to the Committee and be responsible for supervising the activity of the Committee pursuant to Section 10 of the Federal Advisory Committee Act.

703.5 Membership.

Subject to exceptions made from time to time by the Commission to fit special circumstances, the State Committee shall consist of at least

eleven members appointed by the Commission. Members of the State Committee shall serve for a fixed term to be set by the Commission upon the appointment of member, subject to the duration of Advisory Committees as prescribed by the charter, provided that members of the State Committee may, at any time, be removed by the Commission.

Membership on the Advisory Committee shall be reflective of the different ethnic, racial, and religious communities within each State and the membership shall also reflect a cross section balance as to sex, political affiliation and age.

703.6 Officers.

(a) The officers of the State Advisory Committee shall be a Chairman, Vice Chairman and Secretary, and such other officers as is deemed advisable.

(b) The Chairman and Secretary shall be appointed by the Commission.

(c) The Vice Chairman, and other officers shall, subject to 703.4(b), be elected by the majority vote of the full membership of the Committee.

(d) The Chairman, or in his absence the Vice Chairman, subject to 703.4(b) shall:

(1) Call meetings of the State Committee;

(2) Preside over all meetings of the State Committee;

(3) Appoint all subcommittees of the State Committee;

(4) Perform such other functions as the State Committee may authorize or the Commission may request, within the limits of the Act.

(e) The Secretary shall:

(1) Keep detailed minutes of State Advisory Committee meetings; and

(2) Such meetings shall be transcribed and be available pursuant to the regulations prescribed in 704.

703.7 Subcommittees.

Subject to the limitations of 703.4(b), the State Advisory Committee may:

(a) Approve the establishment of subcommittees, composed of members of the State Committee to study and report upon matters under consideration, and it may authorize such subcommittees to take specific action upon matters within the competence of the State Committee; and

(b) Designate, with the prior approval of the Commission, or at the request of the Commission, individual members of the State Committee to perform special projects involving research or study within the scope of the subject matter defined in 703.3.

703.8 Meetings.

(a) Subject to the requirements of 703.4(b) meetings of the State Advisory Committee shall be called whenever it is deemed necessary or desirable by the Chairman, or by a majority of the State Advisory Committee, or by the Commission.

(b) A quorum shall consist of one-half or more of the members of the Advisory Committee, or five members, whichever is the lesser, except that with respect to the conduct of public meetings as authorized in paragraph (e) of this section, a quorum shall consist of three members.

(c) Notice of all meetings of the Advisory Committee shall be given to the public.

(1) Notice shall be published in the FEDERAL REGISTER at least seven

days prior to the meetings, provided that in emergencies, such requirement may be waived.

(2) Notice shall be provided by press releases and other appropriate means.

(3) Notice shall contain a statement of the purpose of the meeting, a summary of the agenda, and the time, place, and location of such meeting.

(d) Subject to the exemptions available under 5 U.S.C. 552 all meetings of the State Advisory Committees shall be open to the public.

(1) Each Regional Director shall have the authority to determine whether a meeting or portion thereof shall be closed to the public subject to the approval of the General Counsel.

(2) Such determination shall be in writing and shall be approved by the General Counsel.

(3) In the event that a meeting or portion thereof is closed to the public, the Committee shall publish, at least annually, in summary form a report of the activities conducted in meetings not open to the public.

(e) Each State Advisory Committee may hold public meetings for the purposes of soliciting information and advice from local officials and other persons respecting subject matter within its jurisdiction, provided, however, that a State Advisory Committee shall not, in conjunction with such meetings, or otherwise, purport to conduct a formal hearing or adversary proceeding of any type, take oral testimony under oath, or issue subpoenas.

(f) Public participation in all State Committee meetings open to the public shall consist of:

(1) The right to submit a written statement; and

(2) Attendance at meetings conducted under paragraph (e) of this section.

(g) Attendance at meetings other than those conducted pursuant to paragraph (e) of this section shall be limited to those persons who request an invitation. Such request for an invitation shall be made within a reasonable time before such meeting to either the Committee Chairman or to the appropriate Regional Director.

(h) Participation at meetings pursuant to paragraph (e) of this section shall be limited to attendance, except that, the Committee may permit a person to present an oral statement where time permits and where such person has been interviewed for purposes of affording protection to any individuals who may otherwise be defamed, degraded or incriminated prior to such presentation by the Committee or Commission employee.

(i) Participation at meetings other than those conducted pursuant to paragraph (e) of this section shall be limited to attendance; this requirement may be waived where appropriate.

703.9 Reimbursement of Members.

(a) State Committee members may be reimbursed by the Commission by a per diem subsistence allowance and for travel expenses at rates not to exceed those prescribed by Congress for Government employees, for following activities only:

(1) Attendance at meetings, as provided for in 703.8; and

(2) Any activity specifically requested and authorized by the Commission to be reimbursed.

(b) Members will be reimbursed

for the expense of travel by private automobile on a mileage basis only to the extent such expense is no more than that of suitable public transportation for the same trip, unless special circumstances justify the additional expense of travel by private automobile.

(c) From time to time, the Commission may give prior authorization for the reimbursement of the State Committee for secretarial help and expenses of duplication and the like, for projects specifically requested by the Commission.

(d) No appropriated funds shall be made available to the State Committee except for the reimbursements authorized in this section.

703.10 Public availability of documents and other materials.

Part 704 of these Rules and Regulations shall be applicable to reports, publications, and other materials prepared by or for State Advisory Committees.

4. COMMUNICATIONS AND CONFIDENTIAL INFORMATION

PART 704—INFORMATION DISCLOSURE AND COMMUNICATIONS

Sec.

704.1 Material available pursuant to 5 U.S.C. 552.

704.2 Complaints.

704.3 Other requests and communications.

704.4 Restrictions on disclosure of information.

AUTHORITY: The provisions of this Part 704 issued under sections 101-106, 71 Stat. 634-636, as amended; 42 U.S.C. 1975-1975(e); section 1, 81 Stat. 54-55; 5 U.S.C. 552.

704.1 Material available pursuant to 5 U.S.C. 552.

(a) *Purpose and scope.* This section contains the regulations of the U.S. Commission on Civil Rights im-

plementing 5 U.S.C. 552. These regulations inform the public about where and how records and information may be obtained from the Commission. Officers and employees of the Commission shall make Commission records available under 5 U.S.C. 552 only as prescribed in this section. Nothing contained in this section, however, shall be construed to prohibit officers or employees of the Commission from routinely furnishing information or records which are customarily furnished in the regular performance of their duties.

(b) *General policy.* In order to foster the maximum participation of an informed public in the affairs of Government, the Commission will make the fullest possible disclosure of its identifiable records and information consistent with such considerations as those provided in the exemptions of 5 U.S.C. 552, which are set forth in paragraph (f) of this section.

(c) *Material maintained on file pursuant to 5 U.S.C. 552(a) (2).* Material maintained on file pursuant to 5 U.S.C. 552(a) (2) shall be available for inspection during regular business hours at the offices of the Commission at 1121 Vermont Avenue, N.W., Washington, D.C. 20425. Copies of such material shall be available upon written request, specifying the material desired, addressed to Office of General Counsel, U.S. Commission on Civil Rights, Washington, D.C. 20425, and upon the payment of fees determined in accordance with paragraph (e) of this section.

(1) *Current index.* Included in the material available pursuant to 5 U.S.C. 552(a) (2) shall be an index of (i) all other material maintained

on file pursuant to 5 U.S.C. 552(a) (2) and (ii) all material published by the Commission in the FEDERAL REGISTER and currently in effect.

(2) *Deletion of identifying details.* Wherever deletions from material maintained on file pursuant to 5 U.S.C. 552(a) (2) are required in order to prevent a clearly unwarranted invasion of privacy, justification for the deletions shall be placed as a preamble to documents from which such deletions are made.

(d) *Material available upon request pursuant to 5 U.S.C. 552(a) (3)—(1) Request procedure.* (i) Requests for records available pursuant to 5 U.S.C. 552(a) (3) shall be addressed in writing to Office of General Counsel, U.S. Commission on Civil Rights, Washington, D.C. 20425, and shall, (a) contain a sufficiently specific description of the record requested with respect to names, dates and subject matter to permit it to be identified and located; (b) state whether copies are requested; (c) state when and where the records are requested to be examined or copies of records to be delivered.

(ii) Response to requests shall be made promptly by the General Counsel and shall, (a) describe the nature and extent of the material, if any, available pursuant to the request; (b) state the estimated cost, determined in accordance with paragraph (e) of this section, and any prepayment requirements, of making the records or copies available; (c) state the time and place, determined in accordance with the terms of the request and with subparagraph (2) of this paragraph, at which records or copies will be made available; (d) if no records are available pursuant to the request, fully state the reasons therefor.

(2) *Time and place of access to material.* Records or copies requested shall be made available at the offices of the Commission at 1121 Vermont Avenue, N.W., Washington, D.C. 20425, during regular business hours.

(e) *Fees.* The fee for making documents or copies available pursuant to 5.U.S.C. 552(a) (2) or 552 (a) (3) shall include: (1) the cost of reproduction of documents, normally 10 cents per page; (2) the cost of postage; and (3) the cost of document searches (normally \$5.32 per hour of Commission staff time devoted to the document search). There will be a charge of \$1 each for certification of true copies. No more than 10 copies of any document will be furnished. If the estimated fees in respect of any request total \$1 or more, they shall be prepaid. Payment shall be made in cash, or by U.S. money order, or by certified bank checks payable to the Treasurer of the United States. Postage stamps will not be accepted.

(f) *Exemptions (5 U.S.C. 552 (b))*

(1) *General.* 5 U.S.C. 552 authorizes exemption from disclosure of records and information concerning matters that are:

(i) Specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

(ii) Related solely to the internal personnel rules and practices of an agency;

(iii) Specifically exempted from disclosure by statute;

(iv) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(v) Interagency or intra-agency memorandums or letters which would not be available by law to a

party other than an agency in litigation with the agency;

(vi) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(vii) Investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

(viii) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; and

(ix) Geological and geophysical information and data, including maps, concerning wells.

(2) *Confidential communications* (5 U.S.C. 552(b) (4)). Among the documents exempt from disclosure pursuant to 5 U.S.C. 552 shall be documents which disclose the fact or the substance of a communication made to the Commission in confidence. A communication shall be deemed to have been made to the Commission in confidence if (i) the communicant states that it is made in confidence, or (ii) the substance or circumstances of the communication make it reasonable to conclude that the communicant would not wish the fact or the substance of the communication disclosed to the public. As a general rule, it shall be deemed reasonable to conclude that a communicant would not wish disclosed to the public a communication alleging or supporting an allegation of, the commission of wrongs by certain persons or entities.

(3) *Investigation files* (5 U.S.C. 552(b) (7)). Among the documents

exempt from disclosure pursuant to 5 U.S.C. 552 shall be investigation files or similar documents reflecting investigations which either (i) are conducted for the purpose of determining whether a violation or violations of legal right has taken place, or (ii) have disclosed that a violation or violations of legal right has taken place, except to the extent such files or similar documents are available by law to a party other than an agency.

(g) *Administrative appeal from denial of requests.* If a request conforming with the requirements of paragraph (d) (1) of this section is denied by the General Counsel, the General Counsel's response to the requesting party shall cite the specific exemption or exemptions under paragraph (f) of these regulations which is the basis for the denial, and inform the requesting party that the denial is subject to review by the Staff Director of the Commission, provided such review is requested by the person submitting a request for information in accordance with this paragraph (g) within 30 days after the date of the General Counsel's decision. The filing of such a request for review may be accomplished by mailing to the Staff Director, U.S. Commission on Civil Rights, Washington, D.C. 20425, by certified mail, a copy of the written denial issued under this paragraph, and a statement of the circumstances, reasons or arguments advanced in support of disclosure. Review will be made by the Staff Director on the basis of the written record described above. The decision on review will be in writing, will be promptly communicated to the person requesting review, and will constitute the final action of the Com-

mission subject to judicial review, as provided in 5 U.S.C. 552(a) (3).

704.2 Complaints.

Any person may bring to the attention of the Commission a grievance which he believes falls within the jurisdiction of the Commission, as set forth in section 104 of the Act. This shall be done by submitting a complaint in writing to Office of General Counsel, U.S. Commission on Civil Rights, Washington, D.C. 20425. Allegations falling under section 104(a) (1) and (5) of the Act (discrimination or fraud in voting) must be under oath or affirmation. All complaints should set forth the pertinent facts upon which the complaint is based, including but not limited to specification of (a) names and titles of officials or other persons involved in acts forming the basis for the complaint; (b) accurate designations of place locations involved; (c) dates of events described in complaint.

704.3 Other requests and communications.

Requests for information and for Commission literature should be directed to Office of Information and Publications, U.S. Commission on Civil Rights, Washington, D.C. 20425. Communications with respect to Commission proceedings should be made pursuant to 702.17 of this chapter. All other communications with the Commission should be directed to Staff Director, U.S. Commission on Civil Rights, Washington, D.C. 20425.

704.4 Restrictions on disclosure of information.

(a) By the provisions of section 102(g) of the Act, no evidence or

testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission, and any person who releases or uses in public without the consent of the Commission such evidence or testimony taken in executive session shall be fined not more than \$1,000 or imprisoned for not more than 1 year.

(b) Unless a matter of public record, all information or documents obtained or prepared by any Member, officer, or employee of the Commission, including members of State Advisory Committees, in the course of his official duties, or by virtue of his official status, shall not be disclosed or used by such person for any purpose except in the performance of his official duties.

(c) Any Member, officer, or employee of the Commission including members of State Advisory Committees, who is served with a subpoena, order, or other demand requiring the disclosure of such information or the production of such documents shall appear in response to such subpoena, order, or other demand and, unless otherwise directed by the Commission, shall respectfully decline to disclose the information or produce the documents called for, basing his refusal upon this section. Any such person who is served with such a subpoena, order, or other demand shall promptly advise the Commission of the service of such subpoena, order, or other demand, the nature of the information or documents sought, and any circumstances which may bear upon the desirability of making available such information or documents.

5. EMPLOYEE RESPONSIBILITIES AND CONDUCT

PART 705—EMPLOYEE RESPONSIBILITIES AND CONDUCT

- Sec.
705.735-1 Adoption of regulations.
705.735-2 Statements of employment and financial interests.
705.735-3 Employee's complaint on filing requirement.
705.735-4 Review of statements of employment and financial interests.
705.735-5 Disciplinary and other remedial action.
705.735-6 Gifts, entertainment and favors.
705.735-7 Outside employment and other activity.
705.735-8 Miscellaneous statutory provisions.
705.735-9 Specific provisions of Commission regulations governing special Government employees.

AUTHORITY: The provisions of this Part 705 issued under E.O. 11222, 30 F.R. 6469, 3 CFR, 1965 Supp.; 5 CFR 735.101 et seq.

705.735-1 Adoption of regulations.

Pursuant to 5 CFR 735.104(f), the U.S. Commission of Civil Rights (referred to hereinafter as the Commission) hereby adopts the following sections of Part 735 of Title 5, Code of Federal Regulation: 735.101-735.102, 735.201a, 735.202 (a), (d), (e), (f)-735.210, 735.302, 735.303 (a), 735.304, 735.305(a), 735.404-735.411, 735.412 (b) and (d). These adopted sections are modified and supplemented as set forth in this part.

705.735-2 Statements of employment and financial interests.

(a) Employees of the Commission in the following named positions are required to submit statements of employment and financial interests:

- (1) The Staff Director.
- (2) The Deputy Staff Director.
- (3) The Division Heads.
- (4) The Executive Officer of the Commission.

(5) Special Assistants to the Staff Director.

(b) A statement of employment and financial interests is not required under this part from Members of the Commission. Members of the Commission are subject to 3 CFR 100. 735.31 and are required to file a statement only if requested to do so by the Counsel to the President.

(c) Notwithstanding the filing of the annual supplementary statement required by 5 CFR 735.406, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflict-of-interest provision of section 208 of Title 18, United States Code or the regulations in this part or adopted under 705.735-1.

705.735-3 Employees complaint on filing requirement.

Any employee who thinks that his position has been improperly included under these regulations as one requiring the submission of a statement of employment and financial interest shall have the opportunity for review of his complaint through the Commission's grievance procedure.

705.735-4. Review of statements of employment and financial interests.

Each statement of employment and financial interests submitted under this part shall be submitted to and reviewed by the General Counsel, except that the statement of the General Counsel shall be submitted to and reviewed by the Staff Director. When a review indicates a conflict between the interests of an employee or special Government employee of the Commission and the performance of his services for the

Government, the reviewing official shall have the indicated conflict brought to the attention of the employee, grant the employee or special Government employee an opportunity to explain the indicated conflict, and attempt to resolve the indicated conflict. If, in the case of a statement (other than a statement of the Staff Director) reviewed by the General Counsel, the indicated conflict cannot be resolved, the General Counsel shall forward a written report on the indicated conflict to the Staff Director through the Counselor for the Commission designated under 5 CFR 735.105 (a). Should a conflict be indicated in a statement of the Staff Director or the General Counsel, and the conflict cannot be resolved, the reviewing official shall forward a written report on the indicated conflict to the Chairman of the Commission.

705.735-5 Disciplinary and other remedial action.

An employee or special Government employee of the Commission who violates any of the regulations in this part or adopted under 705.735-1 may be disciplined. The disciplinary action may be in addition to any penalty prescribed by law for the violation. In addition to or in lieu of disciplinary action, remedial action to end conflicts or appearance of conflicts of interest may include but is not limited to:

- (a) Changes in assigned duties;
- (b) Divestment by employee or special Government employee of his conflicting interest; or
- (c) Disqualification for a particular assignment.

705.735-6 Gifts, entertainment, and favors.

The Commission authorizes the

exceptions to 5 CFR 735.202(a) set forth in 5 CFR 735.202(b) (1)-(4).

705.735-7 Outside employment and other activity.

An employee of the Commission may engage in outside employment or other outside activity not incompatible with the full and proper discharge of the duties and responsibilities of his Government employment. An employee who wishes to engage in outside employment shall first obtain the approval, in writing, of the Staff Director or his designee.

705.735-8 Miscellaneous statutory provisions.

All employees and special Government employees of the Commission are subject to the prohibition on disclosure of evidence taken in executive session contained in section 102(g) of the Civil Rights Act of 1957, 71 Stat. 634, as amended by the Civil Rights Act of 1964, 78 Stat. 241; 42 U.S.C. 1975a(g).

705.735-9 Specific provisions of Commission regulations governing special Government employees.

(a) Special Government employees of the Commission shall adhere to the standards of conduct applicable to employees as set forth in this part and adopted under 705.735-1, except 5 CFR 735.203(b).

(b) Special Government employees of the Commission may teach, lecture, or write in a manner not inconsistent with 5 CFR 735.203(c).

(c) Pursuant to 5 CFR 735.305(b), the Commission authorizes the same exceptions concerning gifts, entertainment, and favors for special Government employees as are authorized for employees by 705.735-6

C. REGULATIONS PROMULGATED BY THE CIVIL SERVICE COMMISSION ON EMPLOYEE RESPONSIBILITIES AND CONDUCT

PART 735—EMPLOYEE RESPONSIBILITIES AND CONDUCT

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AUTHORITY: The provisions of this part 735
issued under secs. 602, 701, 702, E.O. 11222, 30
F.R. 6469, 3 CFR, 1965 Supp.

SUBPART A. GENERAL PROVISIONS

Sec. 735.101 Purpose. The main-
tenance of unusually high standards
of honesty, integrity, impartiality,
and conduct by Government employ-
ees and special Government employ-
ees is essential to assure the proper
performance of the Government
business and the maintenance of
confidence by citizens in their Gov-
ernment. The avoidance of miscon-

duct and conflicts of interest on the part of Government employees and special Government employees through informed judgment is indispensable to the maintenance of these standards. To accord with these concepts, this part sets forth the Commission's regulations under which each agency head shall issue regulations covering the agency's employees and special Government employees, prescribing standards of conduct and responsibilities, and governing statements reporting employment and financial interests.

Sec. 735.102 Definitions. In this part:

(a) Agency means an Executive agency (other than the General Accounting Office) as defined by section 105 of Title 5, United States Code, the Postal Service, and the Postal Rate Commission.

(b) Employee means an officer or employee of an agency but does not include a special Government employee or a member of the uniformed services.

(c) Executive order means Executive Order 11222 of May 8, 1965.

(d) Person means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(e) Special Government employee means a "special Government employee" as defined in section 202 of Title 18 of the United States Code who is employed in the executive branch, but does not include a member of the uniformed services.

(f) Uniformed services has the meaning given that term by section 2101 of Title 5 of the United States Code.

Sec. 735.103 Applicability to members of the uniformed services. This part, except this section, is not applicable to members of the uniformed services. Each agency having jurisdiction over members of the uniformed services shall issue regulations covering those members and regulating their ethical and other conduct and the reporting of employment and financial interests in a manner consistent with the Executive order and this part.

Sec. 735.104 Issuance, approval, and publication of agency regulations. (a) Except as provided in paragraph (f) of this section, each agency head shall prepare, and submit to the Commission for approval, regulations in accordance with this part that:

(1) Implement the requirements of law, the Executive order, and this part; and

(2) Prescribe additional standards of ethical and other conduct and reporting requirements that are appropriate to the particular functions and activities of the agency and are not inconsistent with law, the Executive order, and this part.

(b) After Commission approval each agency head shall: (1) Submit the agency's regulations to the FEDERAL REGISTER for publication;

(2) Furnish each employee and special Government employee a copy of the appropriate agency regulations (or a comprehensive summary thereof) within 90 days after approval;

(3) Furnish each new employee and special Government employee a copy of the appropriate agency regulations (or a comprehensive summary thereof) at the time of his entrance on duty;

(4) Bring the appropriate agency regulations to the attention of each employee and special Government employee annually, and at such other times as circumstances warrant;

(5) Assure the availability of counseling to each employee and special Government employee as provided in section 735.105; and

(6) Have available for review by employees and special Government employees, as appropriate, copies of laws, the Executive order, agency regulations, and pertinent Commission regulations and instructions relating to ethical and other conduct.

(c) Agency regulations issued under this part are effective only after approval by the Commission and publication in the FEDERAL REGISTER.

(d) Requests for approval of agency regulations to be issued under this part shall be directed to the U.S. Civil Service Commission, Office of the General Counsel, Washington, D.C. 20415.

(e) This section applies to any amendment of agency regulations issued under this part.

(f) An agency head who does not consider it feasible to prepare agency regulations under this part because of the small number of his employees, or for another reason acceptable to the Commission, may adopt the regulations in this part for applications, as appropriate, to the employees and special Government employees of his agency if:

(1) He obtains the approval of the Commission for that adoption; and

(2) After obtaining that approval, he submits a notice to the FEDERAL REGISTER announcing the applicabil-

ity of this part to his employees.

Sec. 735.105 Interpretation and advisory service. (a) Each agency head shall designate a top-ranking employee of his agency who has appropriate experience, preferably legal, and in whom he has complete personal confidence, to be the counselor for the agency and to serve as the agency's designee to the Commission on matters covered by this part. The counselor shall be made responsible for coordination of the agency's counseling services provided under paragraph (b) of this section and for assuring that counseling and interpretations on questions of conflicts of interest and other matters covered by this part are available to deputy counselors designated under paragraph (b) of this section.

(b) Each agency head shall designate deputy counselors for the agency's employees and special Government employees. Deputy counselors designated under this section shall be qualified and in a position to give authoritative advice and guidance to each employee and special Government employee who seeks advice and guidance on questions of conflicts of interest and on other matters covered by this part.

(c) Each agency shall notify its employees and special Government employees of the availability of counseling services and of how and where these services are available. This notification shall be made within 90 days after approval of the agency regulations to be issued under this part, and periodically thereafter. In the case of a new employee or special Government employee appointed after this notification, noti-

fication shall be made at the time of his entrance on duty.

Sec. 735.106 Reviewing statements and reporting conflicts of interest.

(a) Agency regulations issued under this part shall establish a system for the review of statements of employment and financial interests submitted under subpart D. The system of review shall be designed to disclose conflicts of interest or apparent conflicts of interest on the part of employees and special Government employees.

(b) The system of review established under paragraph (a) of this section shall provide that, when a statement submitted under subpart D or information from other sources indicates a conflict between the interests of an employee or special Government employee and the performance of his services for the Government and when the conflict or appearance of conflict is not resolved at a lower level in the agency, the information concerning the conflict or appearance of conflict shall be reported to the agency head through the counselor for the agency.

(c) The employee or special Government employee concerned shall be provided an opportunity to explain the conflict or appearance of conflict.

Sec. 735.107 Disciplinary and other remedial action. (a) Agency regulations issued under this part shall provide that a violation of the agency's regulations by an employee or special Government employee may be cause for appropriate disciplinary action which may be in addition to any penalty prescribed by law.

(b) When, after consideration of the explanation of the employee or special Government employee provided by section 735.106, the agency head decides that remedial action is required, he shall take immediate action to end the conflicts or appearance of conflicts of interest. Remedial action may include, but is not limited to:

(1) Changes in assigned duties;

(2) Divestment by the employee or special Government employee of his conflicting interest;

(3) Disciplinary action; or

(4) Disqualification for a particular assignment.

Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive orders, and regulations.

SUBPART B. AGENCY REGULATIONS GOVERNING ETHICAL AND OTHER CONDUCT AND RESPONSIBILITIES OF EMPLOYEES

Sec. 735.201 Specific provisions of agency regulations. Agency regulations issued under this subpart, as a minimum, shall contain provisions covering the standards of and governing the ethical and other conduct of its employees set forth in sections 735.202 through 735.210.

Sec. 735.201a Proscribed actions. An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

(a) Using public office for private gain;

(b) Giving preferential treatment to any person;

(c) Impeding Government efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a Government decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of the Government.

Sec. 735.202 Gifts, entertainment, and favors. (a) Except as provided in paragraphs (b) and (f) of this section, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value from a person who:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with his agency;

(2) Conducts operations or activities that are regulated by his agency; or

(3) Has interests that may be substantially affected by the performance or nonperformance of his official duty.

(b) Agency regulations implementing paragraph (a) of this section may provide for such exceptions as may be necessary and appropriate in view of the nature of the agency's work and the duties and responsibilities of the employees. Appropriate exceptions which may be made by an agency include, but are not limited to those that:

(1) Govern obvious family or personal relationships (such as those between the parents, children, or spouse of the employee and the employee) when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(2) Permit acceptance of food and refreshments of nominal value on infrequent occasions in the or-

inary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance;

(3) Permit acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans; and

(4) Permit acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

(c) [Deleted]

(d) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(e) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and 5 U.S.C. 7342.

(f) Neither this section nor section 735.203 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal

living expenses, gifts, entertainment or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B-128527 of the Comptroller General dated March 7, 1967.

Sec. 735.203 Outside employment and other activity. (a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his Government employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest; or

(2) Outside employment which tends to impair his mental or physical capacity to perform his Government duties and responsibilities in an acceptable manner.

(b) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his service to the Government (18 U.S.C. 209).

(c) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, the Executive order, this part, or the agency regulations. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the

Commission or Board of Examiners for the Foreign Service, that depends on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the agency head gives written authorization for use of non-public information on the basis that the use is in the public interest. In addition, an employee who is a Presidential appointee covered by section 401(a) of the order shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of his agency, or which draws substantially on official data or ideas which have not become part of the body of public information.

(d) [Revoked]

(e) This section does not preclude an employee from:

(1) [Deleted]

(2) Participation in the activities of national or State political parties not proscribed by law.

(3) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational public service, or civic organization.

(4) Outside employment permitted under the regulations of his agency issued under this part.

Sec. 735.204 Financial interests.

(a) An employee shall not:

(1) Have a direct or indirect financial interest that conflicts sub-

stantially, or appears to conflict substantially, with his Government duties and responsibilities; or

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his Government employment.

(b) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law, the Executive order, this section, or the agency regulations.

Sec. 735.205 Use of Government Property. An employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him.

Sec. 735.206 Misuse of information. For the purpose of furthering a private interest, an employee shall not, except as provided in section 735.203 (c), directly or indirectly use, or allow the use of, official information obtained through or in connection with his Government employment which has not been made available to the general public.

Sec. 735.207 Indebtedness. An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation"

means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which the agency determines does not, under the circumstances, reflect adversely on the Government as his employer. In the event of dispute between an employer and an alleged creditor, this section does not require an agency to determine the validity or amount of the disputed debt.

Sec. 735.208 Gambling, betting, and lotteries. An employee shall not participate while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket. However, this section does not preclude activities:

(a) Necessitated by an employee's law enforcement duties; or

(b) Under section 3 of Executive Order 10927 and similar agency-approved activities.

Sec. 735.209 General conduct prejudicial to the Government. An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

Sec. 735.210 Miscellaneous statutory provisions. Each employee shall acquaint himself with each statute that relates to his ethical and other conduct as an employee of his agency and of the Government. An agency shall direct the attention of its employees, by specific reference in the agency regulations issued under

this part, to each statute relating to the ethical and other conduct of employees of that agency and to the following statutory provisions:

(a) House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service."

(b) Chapter 11 of Title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned.

(c) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(d) The prohibitions against disloyalty and striking (5 U.S.C. 7311; 18 U.S.C. 1918).

(e) The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784).

(f) The prohibitions against (1) the disclosure of classified information (18 U.S.C. 798; 50 U.S.C. 783); and (2) the disclosure of confidential information (18 U.S.C. 1905).

(g) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(h) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)).

(i) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(j) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(k) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(l) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(m) The prohibition against coun-

terfeiting and forging transportation requests (18 U.S.C. 508).

(n) The prohibitions against (1) embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(o) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(p) The prohibitions against political activities in subchapter III of chapter 73 of Title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608.

(q) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

SUBPART C. AGENCY REGULATIONS GOVERNING ETHICAL AND OTHER CONDUCT AND RESPONSIBILITIES OF SPECIAL GOVERNMENT EMPLOYEES

Sec. 735.301 Specific provisions of agency regulations. Agency regulations issued under this subpart, as a minimum, shall contain provisions covering the standards of and governing the ethical and other conduct of its special Government employees as set forth in sections 735.302 through 735.306. In addition, to the extent considered appropriate by the agency head, the agency regulations issued under this subpart shall require its special Government employees to adhere to the standards of conduct made applicable to employees by agency regulations issued under subpart B of this part.

Sec. 735.302 Use of Government employment. A special Government employee shall not use his Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business, or financial ties.

Sec. 735.303 Use of inside information. (a) A special Government employee shall not use inside information obtained as a result of his Government employment for private gain for himself or another person either by direct action on his part or by counsel, recommendation, or suggestion to another person, particularly one with whom he has family, business, or financial ties. For the purpose of this section, "inside information" means information obtained under Government authority which has not become part of the body of public information.

(b) Agency regulations implementing paragraph (a) of this section may provide that special Government employees may teach, lecture, or write in a manner not inconsistent with section 735.203(c) in regard to employees.

Sec. 735.304 Coercion. A special Government employee shall not use his Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business, or financial ties.

Sec. 735.305 Gifts, entertainment, and favors. (a) Except as provided in paragraph (b) of this section, a special Government employee, while so employed or in connection with his employment, shall not receive or

solicit from a person having business with his agency anything of value as a gift, gratuity, loan, entertainment, or favor for himself or another person, particularly one with whom he has family, business, or financial ties.

(b) Agency regulations implementing paragraph (a) of this section may provide for exceptions for special Government employees that are not inconsistent with the exceptions authorized for their employees under section 735.202(b).

Sec. 735.306 Miscellaneous statutory provisions. Each special Government employee shall acquaint himself with each statute that relates to his ethical and other conduct as a special Government employee of his agency and of the Government. An agency shall direct the attention of its special Government employees, by specific reference in the agency regulations issued under this part, to each statute relating to the ethical and other conduct of special Government employees of that agency and to those statutory provisions listed in section 735.210 that are applicable to special Government employees.

SUBPART D. AGENCY REGULATIONS GOVERNING STATEMENTS OF EMPLOYMENT AND FINANCIAL INTERESTS

Sec. 735.401 Form and content of statements. The statements of employment and financial interests required under this subpart for use by employees and special Government employees shall contain, as a minimum, the information required by the formats prescribed by the Commission in the FEDERAL PERSONNEL MANUAL. An agency shall not in-

clude questions on a statement of employment and financial interests that go beyond, or are in greater detail than, those included on the Commission's formats without the approval of the Commission.

Sec. 735.402 Specific provisions of agency regulations for employees. Agency regulations issued under this subpart for employees, as a minimum, shall contain provisions covering the reporting requirements set forth in sections 735.403 through 735.411.

Sec. 735.403 Employees required to submit statements. Except as provided in section 735.404, each agency head shall require statements of employment and financial interest from:

(a) Employees paid at a level of the Executive Schedule in subchapter II of chapter 53 of Title 5, United States Code.

(b) Employees classified at GS-13 or above under section 5332 of Title 5, United States Code, or at a comparable pay level under another authority, who are in positions identified in the agency's regulations as positions the incumbents of which are responsible for making a Government decision or taking a Government action in regard to:

(1) Contracting or procurement;
(2) Administering or monitoring grants or subsidies;

(3) Regulating or auditing private or other non-Federal enterprise; or

(4) Other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise.

(c) Employees classified at GS-13 or above under section 5332 of title 5, United States Code, or at a comparable pay level under another au-

thority, who are in positions which the agency has determined have duties and responsibilities which require the incumbent to report employment and financial interests in order to avoid involvement in a possible conflicts-of-interest situation and carry out the purpose of law, Executive order, this part, and the agency's regulations.

(d) Employees classified below GS-13 under section 5332 of Title 5, United States Code, or at a comparable pay level under another authority, who are in positions which otherwise meet the criteria in paragraph (b) or (c) of this section, when the inclusion of the positions in the agency's regulations has been specifically justified by the agency in writing to the Commission as an exception that is essential to protect the integrity of the Government and avoid employee involvement in a possible conflicts-of-interest situation.

Sec. 735.403a Employee's complaint on filing requirement. Agency regulations issued under this subpart shall inform employees of the opportunity for review through the agency's grievance procedure of a complaint by an employee that his position has been improperly included under the regulations of his agency as one requiring the submission of a statement of employment and financial interests.

Sec. 735.404 Employees not required to submit statements. (a) Employees in positions that meet the criteria in paragraph (b) of section 735.403 may be excluded from the reporting requirement when the agency determines that:

(1) the duties of a position are such that the likelihood of the in-

cumbent's involvement in a conflicts-of-interest situation is remote;

(2) the duties of a position are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government; or

(3) the use of an existing or alternative procedure approved by the Commission is adequate to prevent possible conflicts of interest.

(b) A statement of employment and financial interests is not required by this subpart from an agency head, a Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in that office, or a full-time member of a committee, board, or commission appointed by the President. These employees are subject to separate reporting requirements under section 401 of the Executive order.

Sec. 735.404a Interests not required to be reported. Agency regulations issued under this subpart may exclude the reporting of any interest which has, by general rule or regulation published in the FEDERAL REGISTER under section 208(b) (2) of Title 18, United States Code, been exempted as too remote or too inconsequential to affect the integrity of employees' services.

Sec. 735.405 Time and place for submission of employee's statements. An employee required to submit a statement of employment and financial interests under the regulations of his agency shall submit that statement to the office designated in

the agency regulations not later than:

(a) Ninety days after the effective date of the agency regulations issued under this part if employed on or before that effective date; or

(b) Thirty days after his entrance on duty, but not earlier than ninety days after the effective date, if appointed after that effective date.

Sec. 735.406 Supplementary statements. Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of June 30 each year, except when the Commission authorizes a different date on a showing by an agency of necessity therefor. If no changes or additions occur, a negative report is required. Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of section 208 of Title 18, United States Code, or subpart B of this part.

Sec. 735.407 Interests of employees' relatives. The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee. For the purpose of this section, "member of an employee's immediate household" means those blood relations who are residents of the employee's household.

Sec. 735.408 Information not known by employees. If any informa-

tion required to be included on a statement of employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his behalf.

Sec. 735.409 Information prohibited. This subpart does not require an employee to submit on a statement of employment and financial interests or supplementary statement any information relating to the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

Sec. 735.410 Confidentiality of employees' statements. An agency shall hold each statement of employment and financial interests, and each supplementary statement, in confidence. To insure this confidentiality, an agency shall designate which employees are authorized to review and retain the statements. Employees so designated are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this part. An

agency may not disclose information from a statement except as the Commission or the agency head may determine for good cause shown.

Sec. 735.411 Effect of employees' statements on other requirements. The statements of employment and financial interests and supplementary statements required of employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order, or regulation.

Sec. 735.412 Specific provisions of agency regulations for special Government employees. (a) Agency regulations issued under this subpart for special Government employees, as a minimum, shall contain provisions covering the reporting requirements set forth in this section.

(b) Except as provided in paragraph (c) of this section, each agency head shall require each special Government employee to submit a statement of employment and financial interests which reports:

- (1) All other employment; and
- (2) The financial interests of the special Government employee which the agency determines are relevant in the light of the duties he is to perform.

(c) An agency head may waive the requirement in paragraph (b) of this section for the submission of a statement of employment and financial interests in the case of a special

Government employee who is not a consultant or an expert when the agency finds that the duties of the position held by that special Government employee are of a nature and at such a level of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. For the purpose of this paragraph, "consultant" and "expert" have the meanings given those terms by chapter 304 of the FEDERAL PERSONNEL MANUAL, but do not include:

(1) A physician, dentist, or allied medical specialist whose services are procured to provide care and service to patients; or

(2) A veterinarian whose services are procured to provide care and service to animals.

(3) A specialist appointed for intermittent confidential intelligence consultation of brief duration.

(d) A statement of employment and financial interests required to be submitted under this section shall be submitted not later than the time of employment of the special Government employee as provided in the agency regulations. Each special Government employee shall keep his statement current throughout his employment with the agency by the submission of supplementary statements.

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